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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/871,199	05/31/2001	James M. Kain	20341-67618	9889
7590		08/08/2008		
Richard A. Rezek Barnes & Thornburg 11 South Meridian Street Indianapolis, IN 46204				
			EXAMINER	
			EDELL, JOSEPH F	
			ART UNIT	PAPER NUMBER
			3636	
			MAIL DATE	DELIVERY MODE
			08/08/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/871,199	<b>Applicant(s)</b> KAIN, JAMES M.	
	<b>Examiner</b> Joseph F. Edell	<b>Art Unit</b> 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 April 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 4-9 and 11-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15-24 is/are allowed.
- 6) ☒ Claim(s) 4-8, 11-13, 25, 27, 28, 30 and 31 is/are rejected.
- 7) ☒ Claim(s) 9, 14, 26 and 29 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

In view of the Board of Patent Appeals and Interference's decision entered 21 April 2008, PROSECUTION IS HEREBY REOPENED.

A Technology Center Director or designee has approved of reopening prosecution by signing below:

*Katherine Matecki*  
DIRECTOR, TC 3600

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 13 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,124,390 to Eames et al.

Eames et al. disclose a seat assembly that includes all the limitations recited in claims 13 and 27. Eames et al. show a seat assembly having a seat 1 (see Fig. 1) with a seat bottom 5,61 and a seat back 6,60, a non-pivotable cantilevered armrest 42 (see Fig. 2) projecting from the seatback, an arm of the armrest including free end, a top surface and a support mount (upper portion of strip 40) appended to the arm and coupled to the seat back to support the arm in a cantilevered position, a first fastener 53 coupled to the support mount and the seat back to maintain the arm in the cantilevered position and being arranged to lie above the top surface of the arm to cause the arm to lie between the first fastener and the seat bottom when the arm is in the cantilevered

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position, a load support panel (the lower end of strip 40 below the arm) fixed to the armrest to lie in a fixed position relative to the arm and the support mount and to engage a ridge 6 of the seat back to block pivotable movement of the armrest toward the seat bottom about a pivot axis established by the first fastener.

Please note that Examiner reasonably interprets "panel" as a separate or distinct flat part of a surface.

With respect to claim 27, Eames et al. show the support mount including upper wings (see Fig. 6) rising above the top surface of the arm and away from the seat bottom wherein the support mount inherently includes lower wings extending below the top surface of the arm and toward the seat bottom, the first fastener coupled to the upper wings and the seat back, and a second fastener 57 coupled to the lower wings and the seat back.

3. Claim 13 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,526,537 to Conrad.

Conrad discloses a seat assembly that includes all the limitations recited in claim 13. Conrad shows a seat assembly having a seat (see Fig. 7) with a seat bottom 38 (Fig. 2) and a seat back 70,71,73, a cantilevered armrest 75 projecting from the seatback, an arm of the armrest including free end, a top surface and a support mount 79 appended to the arm and coupled to the seat back to support the arm in a cantilevered position, a first fastener coupled to the support mount and the seat back to maintain the arm in the cantilevered position and being arranged to lie above the top surface of the arm to cause the arm to lie between the first fastener and the seat bottom

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when the arm is in the cantilevered position, a load support panel 77 inherently fixed to the armrest to lie in a fixed position relative to the arm and the support mount and to engage a ridge (portion of extension 70) of the seat back to block pivotable movement of the armrest toward the seat bottom about a pivot axis established by the first fastener.

5. Claim 25 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,067,613 to Pesiri.

Pesiri discloses a seat assembly that includes all the limitations recited in claim 25. Pesiri shows a seat assembly having a seat (see Fig. 1) with a seat bottom and a seat back with a side edge facing toward the seat bottom, a cantilevered armrest 10 including a free end, a top surface, and a support mount 12 (see Fig. 4) formed to include a rearwardly facing U-shaped channel receiving the forwardly facing side edge of the seat back therein, an arm of the armrest appended to the support mount, and means for fastening the support mount to the seat back above and below the arm on a side of the side ridge to support the arm in a cantilever position to stabilize the arm against movement wherein the means for fastening is functionally equivalent to that of the instant application.

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 2,974,718 to Lawrence et al. in view of U.S. 6,478,372 B1 to Lemmeyer et al.

Lawrence et al. disclose a seat assembly that is basically the same as that recited in claims 6-8 except that the rail is not specified as an armrest, the seat back portion is not specified as a ridge, and the upper wing and the ridge are not specified as having fastener apertures, as recited in the claims. See Figures 1-3 of Lawrence et al. for the teaching that the seat assembly has a seat with a seat bottom 17 and a seat back 15,29, a cantilevered rail 21 projecting from the seat back, an arm of the rail, a support mount 75 appended to the arm and coupled to the seat back to support the arm in a cantilevered position, a first fastener 65 coupled to the support mount and the seat back to maintain the arm in the cantilevered position, the first fastener being arranged to lie above the arm to cause the arm to lie between the first fastener and the seat bottom, and inner and outer flanges 77 of the support mount that are coupled to the arm and positioned to lie in spaced-apart relation to receive a portion of the seat back in a U-shaped channel formed in the support mount between the inner and outer flange wherein the first fastener extends through the inner and outer flanges, and each flange is formed to include an upper wing rising above the arm and away from the seat bottom and the first fastener is coupled to the upper wing of each flange.

Lemmeyer et al. show a seat assembly similar to that of Lawrence et al. wherein the seat assembly (see Fig. 1) has a cantilevered armrest 16 with inner and outer

flanges (Fig. 1B) to receive a ridge 110 (Fig. 1A) of a seat back 12 such that the flanges and the ridge have apertures for accommodating a fastener. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the seat assembly of Lawrence et al. such that the rail is an armrest and the received portion of the seat back is a ridge wherein ridge is formed to include a fastener aperture, each upper wing includes a fastener aperture, and the first fastener is arranged to extend through the fastener apertures formed in the ridge and the each upper wing, such as the seat assembly disclosed by Lemmeyer et al. One would have been motivated to make such a modification in view of the suggestion in Lemmeyer et al. that an armrest provides rest for the user's forearms and the ridged seat back provides shell structure to protect the user, and in view of the knowledge generally available to one skilled in the art that an assembly having armrest provide needed support for a user's arms and that apertures in seat components accommodating a fastener is a conventional method to attach discrete seat components.

8. Claims 4, 11, 12, 28, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eames et al. in view of U.S. 3,542,427 to Herpel et al.

Eames et al. disclose a seat assembly that is basically the same as that recited in claims 4, 11, 12, 28, and 31 except that the first fastener is not coupled to apertures in the support mount and the seat back, as recited in the claims. Herpel et al. show a seat assembly similar to that of Eames et al. wherein the seat assembly has a seat back 16 (see Fig. 1), an armrest 28, a first fastener (the plurality of screws 31 shown in Figs. 2 & 4) coupled to apertures in the support mount and apertures in the seat back to

maintain the armrest in a cantilevered position. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the seat assembly of Eames et al. such that the first fastener is coupled to apertures in the support mount and apertures in the ridge of the seat back wherein each upper wing is formed to include a fastener aperture, and the first fastener is arranged to extend through the fastener apertures formed in the upper wings and the seat back, such as the seat assembly disclosed by Herpel et al. One would have been motivated to make such a modification in view of the suggestion in Herpel et al. that the fastener configuration secured a bracket portion of the support mount to the seat back, and view of the knowledge generally available to one skilled in the art that hook fasteners are functionally equivalent to a plurality of screws.

With respect to claims 4 and 31, the first fastener would inherently have a length longer than the second fastener because the first fastener includes a plurality of screws that, when aligned end to end, would be longer than the length of Eames et al.'s stud 57 of the second fastener.

9. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eames et al. in view of Herpel et al. as applied to claims 4 and 11 above, and further in view of U.S. Patent No 5,297,851 to Van Hekken.

Eames et al., as modified, disclose a seat assembly that is basically the same as that recited in claim 5 except that the fasteners lacks a barrel and screw, as recited in the claims. Van Hekken shows a seat assembly similar to that of Eames et al. wherein each fastener (see Fig. 4) includes a barrel 50 with a first end and an opposite threaded



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open end, an enlarged head coupled to the first end, and a screw 32 threaded to fit in and mate with the threaded open end of the barrel. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the seat assembly of Eames et al. for that teaching that each fastener includes a barrel with a first end and an opposite threaded open end, an enlarged head coupled to the first end, and a screw threaded to fit in and mate with the threaded open end of the barrel to couple the support mount to the seat back, such as the seat assembly disclosed in Van Hekken. One would have been motivated to make such a modification in view of the suggestion in Van Hekken that the threaded barrel and screw configuration of each fastener allow for easy attachment of plastic seat parts while lessening the instance of stress fractures in the plastic.

10. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eames et al. in view of Van Hekken.

Eames et al. disclose a seat assembly that is basically the same as that recited in claim 30 except that the fasteners lacks a barrel and screw, as recited in the claims. Van Hekken shows a seat assembly similar to that of Eames et al. wherein each fastener (see Fig. 4) includes a barrel 50 with a first end and an opposite threaded open end, an enlarged head coupled to the first end, and a screw 32 threaded to fit in and mate with the threaded open end of the barrel. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the seat assembly of Eames et al. for that teaching that each fastener includes a barrel with a first end and an opposite threaded open end, an enlarged head coupled to the first end,

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and a screw threaded to fit in and mate with the threaded open end of the barrel to couple the support mount to the seat back, such as the seat assembly disclosed in Van Hekken. One would have been motivated to make such a modification in view of the suggestion in Van Hekken that the threaded barrel and screw configuration of each fastener allow for easy attachment of plastic seat parts while lessening the instance of stress fractures in the plastic.

#### ***Allowable Subject Matter***

11. Claims 15-24 are allowed.
12. Claims 9, 14, 26, and 29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (571) 272-6858. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Joseph F Edell/  
Primary Examiner, Art Unit 3636  
August 6, 2008